

§ 21.9685

(d) *Apportionments prohibited.* VA will not apportion educational assistance.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3680)

(e) *Accrued benefits.* Educational assistance remaining due and unpaid on the date of the individual's death is payable under the provisions of § 3.1000 of this chapter.

(Authority: 38 U.S.C. 5121)

§ 21.9685 Tutorial Assistance.

(a) An individual who is eligible to receive benefits under 38 U.S.C. chapter 33 may receive additional monetary assistance for tutorial services. VA will pay the individual this assistance if the tutorial assistance is necessary for the eligible individual to complete his or her program of education successfully, and the individual—

(1) Is enrolled in and pursuing a post-secondary program of education at a rate of pursuit of at least 50 percent at an institution of higher learning; and

(2) The professor or other person teaching, leading, or giving the course certifies that—

(i) Tutorial assistance is essential to correct a deficiency of the individual in such course; and

(ii) The course is required as part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

(b) *Limits on tutorial assistance.* (1) VA will authorize the cost of tutorial assistance in an amount not to exceed \$100 per month.

(2) The total amount of all tutorial assistance provided under this section will not exceed \$1,200.

(Authority: 38 U.S.C. 3034(a), 3314, 3323(a), 3492)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0171)

§ 21.9690 Nonduplication of educational assistance.

(a) Except for receipt of a Montgomery GI Bill-Active Duty kicker provided under 38 U.S.C. 3015(d) or a Montgomery GI Bill-Selected Reserve kicker provided under 10 U.S.C. 16131(i), an eligible individual is barred from receiving educational assistance under 38

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U.S.C. chapter 33 concurrently with educational assistance provided under—

(1) 10 U.S.C. 1606 (Montgomery GI Bill—Selected Reserve);

(2) 10 U.S.C. 1607 (Reserve Educational Assistance Program);

(3) 10 U.S.C. 106a (Section 901, Educational Assistance Test Program);

(4) 38 U.S.C. 30 (Montgomery GI Bill—Active Duty);

(5) 38 U.S.C. 31 (Vocational Rehabilitation and Employment Program);

(6) 38 U.S.C. 32 (Post-Vietnam Era Veterans' Educational Assistance);

(7) 38 U.S.C. 35 (Survivors' and Dependents' Educational Assistance); or

(8) Hostage Relief Act of 1980.

(Authority: 38 U.S.C. 3034(a), 3322, 3323(a), 3681; section 901, Pub. L. 96-342)

(b) An individual who is eligible for educational assistance under more than one program listed in paragraph (a) of this section must specify in writing which benefit he or she wishes to receive. The eligible individual may choose to receive payment under another educational assistance program at any time, but may not change which benefit he or she will receive more than once during a term, quarter, or semester.

(Authority: 38 U.S.C. 3034(a), 3322, 3323(a), 3681)

(c) *Nonduplication—Federal program.* Payment of educational assistance is prohibited to an otherwise eligible reservist—

(1) For a unit course or courses that are being paid for entirely or partly by the Armed Forces during any period in which he or she is on active duty service; or

(2) For a unit course or courses that are being paid for entirely or partly by the United States under the Government Employees' Training Act.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3681)

§ 21.9695 Overpayments.

(a) *Prevention of overpayments.* In administering educational assistance payable under 38 U.S.C. chapter 33, VA will apply the provisions of §§ 21.4008 and 21.4009 to eligible individuals and,